IN THE HIGH COURT OF JUDICATURE AT BOMABY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION LODGING NO.38 OF 2004
IN
COMPANY PETITION NO.719 OF 2002

Mr. C.M. Manuel. ..Applicant.
Vs.
The Official Liquidator and ors. ..Respondents.

Mr. H.N. Thakore i/by T. Jariwala and Associates for the Applicant.

Mr. Sayed i/by M./K./ Ambalal & Co. for the original petitioner.

CORAM: A.M.KHANWILKAR,J.
DATED: 16.9.2005

PC:

1. Heard counsel for the applicant, the representative of the Official Liquidator as well as counsel for the original petitioner and the Union Bank of India. The application is made in respect of premises bearing No.36/2083 Karithala Desom, Carrier Station Road, Ernakulam, Kerla. It is stated that Official Liquidator be directed to handover the possession of the said premises to the applicant who had inducted the respondent company in the said premises only as licensee in terms of agreement dated 31.12.2002. The said licence is going to expire on 31.12.2005. The premises are no more required for the activities of the company, the same be handedover to the applicant.

2. The Official Liquidator points out that some movable assets are lying in the above said premises which are hypothecated to the Union Bank of India. Whereas, the counsel for the original petitioner contends that the applicant should satisfy the Official

Liquidator that the applicant is the owner of the said premises so as to get back the possession of the premises from the Official Liquidator.

3. Having considered the rival contentions, in my opinion, the question of establishing the ownership in respect of the above premises does not arise. The claim of the applicant is that the applicant had inducted the respondent company as licensee in view of the agreement dated 31.12.2002. If the Official Liquidator is satisfied in that behalf, as the licence period is already over and the premises are not in use by the respondent company since long, the Official Liquidator will take steps to restore the possession of the said premises to the applicant. This arrangement is directed as the applicant has assured this court that the security deposit lying with the applicant deposited by the respondent company in terms of the agreement dated 31.12.2002 will be made over to the Official Liquidator and the applicant will not pursue the claim for arrears or any outstanding compensation to be paid in respect of the suit premises by the respondent to the applicant. That assurance is accepted.

4. Accordingly, this application is disposed of with

direction to the Official Liquidator to consider the claim of the applicant and if the Official Liquidator is satisfied that the applicant had inducted the respondent company as licensee in the said premises, shall proceed to handover the possession of the suit premises to the applicant by calling upon Union Bank of India to remove all the movables lying in the premises within four weeks from the date of adjudication failing which the goods be stored at a place which will be identified by the petitioner in consultation with the respondent company. The said goods be kept at a proper place under security. The expenses for security arrangement will be borne by the petitioner and the creditors as may be determined by the Official Liquidator.

5. Application is disposed of on the above terms.

(A.M. KHANWILKAR, J.)